

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

USDC SDNY
DOCUMENT
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v.

16-CR-670 (KMW)

ORDER

MARIA MAGDALENA ALMONTE,

Defendant.

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KIMBA M. WOOD, United States District Judge:

On June 3, 2021, Maria Magdalena Almonte filed a form motion, styled as a “Motion for Hardship Credit for Hard Time Served.” (ECF No. 353.) The Government opposes the motion. (ECF No. 357.)

The motion invokes “several protections under the Fourteenth and Fifth Amendments of the United States Constitution” and asserts that “two days credit” are warranted for each day served by Almonte at FCI Aliceville. (*See* Mot. at 1.) The motion does not, however, provide any legal basis for the Court to recalculate Almonte’s sentence based on the conditions of her confinement. In fact, other defendants at FCI Aliceville have filed similar form motions, and they have routinely been denied. *See, e.g., United States v. Hernandez*, 2021 WL 1668050, at *1 (W.D.N.C. Apr. 28, 2021); *United States v. Barnes*, 2021 WL 1395199, at *1 (S.D. Ga. Apr. 13, 2021).

As the Government points out, if Almonte wishes to challenge the conditions of her confinement on constitutional grounds, she may do so in a civil lawsuit in the district of her confinement, after exhausting her administrative remedies. (Gov’t Opp’n at 1-2.) The instant motion, however, does not reference any efforts to exhaust administrative remedies with the Bureau of Prisons, nor has it been filed in the appropriate district. *See United States v. King*,

2021 WL 1550307, at *1 (S.D. Tex. Apr. 19, 2021). Accordingly, the motion must be denied.

CONCLUSION

For the reasons set forth above, Almonte's motion is denied. The Clerk of Court is respectfully directed to mail a copy of this Order to Almonte and to terminate the motion at ECF No. 353.

Dated: New York, New York
July 13, 2021

/s/ Kimba M. Wood
KIMBA M. WOOD
United States District Judge